

**EX PARTE
DOMESTIC VIOLENCE
ORDER OF PROTECTION**

G.S. 50B-2, -3, -3.1

Case No. Court General Court of Justice
District Court DivisionCounty New Hanover NORTH CAROLINA**PETITIONER/PLAINTIFF**

Catherine Heather Blaylock
First Middle Last

PETITIONER/PLAINTIFF IDENTIFIERS

3-4-85
Date Of Birth Of Petitioner

And/or on behalf of minor family member(s): (List Name And DOB)

Other Protected Persons/DOB:

<u>[REDACTED]</u>	<u>[REDACTED]</u>	NEW HANOVER COUNTY, C.S.C.
<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>
<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>
<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>

VERSUS**RESPONDENT/DEFENDANT**

Brian Matthew Berger
First Middle Last

- Relationship to Petitioner: ☐ spouse ☐ former spouse
☐ unmarried, of opposite sex, currently or formerly living together
☐ unmarried, have a child in common
☒ of opposite sex, currently or formerly in dating relationship
☐ current or former household member
☐ parent ☐ grandparent ☐ child ☐ grandchild

Respondent's/Defendant's Address

527 Commons Way
Wilmington, NC 28409

RESPONDENT/DEFENDANT IDENTIFIERS

Sex	Race	DOB	HT	WT
<u>M</u>	<u>W</u>	<u>7-15-76</u>	<u>5'7</u>	<u>~180</u>
Eyes	Hair	Social Security Number		
<u>Blue</u>	<u>Brown</u>			
Drivers License No.		State	Expiration Date	

Distinguishing Features

has some cuts along his arms

CAUTION:☐ Weapon Involved**THE COURT HEREBY FINDS THAT:**

This matter was heard by the undersigned ☒ district court judge. ☐ magistrate. The court has jurisdiction over the subject matter.

Additional findings of this order are set forth on Page 2.

THE COURT HEREBY ORDERS THAT:

The above named Respondent/Defendant shall not commit any further acts of abuse or make any threats of abuse.

The above named Respondent/Defendant shall have no contact with the Petitioner/Plaintiff. No contact includes any defendant-initiated contact, direct or indirect, by means such as telephone, personal contact, email, pager, gift-giving or telefacsimile machine. [05]

Additional terms of this order are as set forth on Pages 3 and 4.

The terms of this order shall be effective until

September 16 2011

WARNINGS TO THE RESPONDENT/DEFENDANT:

This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, and any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).

This order will be enforced anywhere in North Carolina.

Only the Court can change this order. The plaintiff cannot give you permission to violate this order.

See additional warnings on Page 4.

ADDITIONAL FINDINGS

1. As indicated by the check block under Respondent/Defendant's name on Page 1, the parties are or have been in a personal relationship.

- ☒ 2. That on (date of most recent conduct) Recently, the defendant
- ☐ a. ☐ attempted to cause ☐ intentionally caused bodily injury to ☐ the plaintiff ☐ the child(ren) living with or in the custody of the plaintiff
- ☐ b. placed in fear of imminent serious bodily injury ☐ the plaintiff ☐ a member of the plaintiff's family ☐ a member of the plaintiff's household
- ☒ c. placed in fear of continued harassment that rises to such a level as to inflict substantial emotional distress
- ☒ the plaintiff ☐ a member of plaintiff's family ☐ a member of plaintiff's household
- ☐ d. committed an act defined in G.S. 14- ☐ 27.2 (1st deg. rape) ☐ 27.3 (2nd deg. rape) ☐ 27.4 (1st deg. sexual off.) ☐ 27.5 (2nd deg. sexual off.) ☐ 27.5A (sexual battery) ☐ 27.7 (sexual activity by substitute parent) against ☐ the plaintiff ☐ a child(ren) living with or in the custody of the plaintiff by
- (describe defendant's conduct)

Defendant has harassed Plaintiff, threatened to kill himself, and caused emotional distress to Plaintiff and her children. Son Plaintiff plates of suicide attempt.

☐ 3. The defendant is in possession of, owns or has access to firearms, ammunition, and gun permits described below. (Describe all firearms, ammunition, gun permits and give identifying number(s) if known, and indicate where defendant keeps firearms)

- ☒ 4. The defendant
- ☐ a. ☐ used ☐ threatened to use a deadly weapon against the ☐ plaintiff ☐ minor child(ren) residing with or in the custody of the plaintiff
- ☐ b. has a pattern of prior conduct involving the ☐ use ☐ threatened use of violence with a firearm against persons.
- ☐ c. made threats to seriously injure or kill the ☐ plaintiff ☐ minor child(ren) residing with or in the custody of the plaintiff.
- ☒ d. made threats to commit suicide
- ☐ e. Inflicted serious injuries upon the ☐ plaintiff ☐ minor child(ren) residing with or in the custody of the plaintiff.
- In that (state facts):

Defendant threatened to commit suicide. Cut himself and son Plaintiff prebarnes

☐ 5. The parties are the parents of the following child(ren) under the age of eighteen (18). The child(ren) are presently in the physical custody of the ☐ plaintiff. ☐ defendant. The plaintiff has submitted an "Affidavit As To The Status Of The Minor Child."

NOTE TO JUDGE: A copy of AOC-CV-609 for each child must be attached to the order.

Name	Sex	Date Of Birth	Name	Sex	Date Of Birth

- ☐ 6. The minor child(ren) is exposed to a substantial risk of physical or emotional injury or sexual abuse in that:
- ☐ 7. It is in the best interest of and necessary for the safety of the minor child(ren) ☐ that defendant stay away from the minor child(ren) ☐ that the defendant return the minor child(ren) to plaintiff ☐ and that the defendant not remove the minor child(ren) from plaintiff in that:
- ☐ 8. (Check block only if plaintiff is entitled to physical care of child.) It is in the best interest of the minor child(ren) that defendant have contact with the minor child(ren) in that:
- ☐ 9. The ☐ defendant ☐ plaintiff is presently in possession of the parties' residence at _____

☐ 10. The ☐ defendant ☐ plaintiff is presently in possession of the parties' vehicle. (describe vehicle)

☐ 11. Other: (specify)

☐ 12. (for magistrate only) This matter was heard at a time when the district court was not in session and a district court judge was not available and would not be available for a period of four or more hours.

CONCLUSIONS

Based on these facts, the Court makes the following conclusions of law:

- ☒ 1. The defendant has committed acts of domestic violence against the plaintiff.
- ☐ 2. The defendant has committed acts of domestic violence against the minor child(ren) residing with or in the custody of the plaintiff.
- ☒ 3. It clearly appears that there is a danger of acts of domestic violence against the ☒ plaintiff. ☐ minor child(ren). [G.S. 50B-2(c)]
- ☐ 4. The minor child(ren) is exposed to a substantial risk of ☐ physical injury. ☐ emotional injury. ☐ sexual abuse. [G.S. 50B-2(c)]
- ☐ 5. The Court has jurisdiction under the Uniform Child Custody Jurisdiction And Enforcement Act.
- ☐ 6. It is in the best interest of and necessary for the safety of the minor child(ren) that the defendant ☐ stay away from the minor child(ren). ☐ (and) return the minor child(ren) to the physical care of the plaintiff. ☐ (and) not remove the minor from from the physical care of the plaintiff.
- ☒ 7. The defendant's conduct requires that he/she surrender all firearms, ammunition and gun permits. [G.S. 50B-3.1]
- ☐ 8. The plaintiff has failed to prove grounds for ex parte relief.

ORDER

It is ORDERED that:

- ☒ 1. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [01]
- ☒ 2. the defendant shall not assault, threaten, abuse, follow, harass (by telephone, visiting the home or workplace or other means), or interfere with the minor child(ren) residing with or in the custody of the plaintiff. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [01]
- ☒ 3. the defendant shall not threaten a member of the plaintiff's family or household. [02]
- ☐ 3a. the defendant shall not cruelly treat or abuse an animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.
- ☐ 4. the plaintiff is granted possession of, and the defendant is excluded from, the parties' residence described above and all personal property located in the residence except for the defendant's personal clothing, toiletries and tools of trade. [03]
- ☐ 5. any law enforcement agency with jurisdiction shall evict the defendant from the residence and shall assist the plaintiff in returning to the residence. [08]
- ☒ 6. the ☒ plaintiff [08] ☐ defendant [08] is entitled to get personal clothing, toiletries, and tools of trade from the parties' residence. A law enforcement officer shall assist the ☒ plaintiff ☐ defendant in returning to the residence to get these items. *Defendant's*
- ☐ 6a. the plaintiff is granted the care, custody, and control of any animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.
- ☒ 7. the defendant shall stay away from the plaintiff's residence or any place where the plaintiff receives temporary shelter. A law enforcement officer shall arrest the defendant if the officer has probable cause to believe the defendant has violated this provision. [04]
- ☒ 8. the defendant shall stay away from the following places:
- ☒ (a) the place where the plaintiff works. [04]. ☒ (b) any school(s) the child(ren) attend. [04]
- ☒ (c) the place where the child(ren) receives day care. [04] ☐ (d) the plaintiff's school. [04]
- ☐ (e) Other: (name other places) [04]

Pine Valley Elementary, Earth Seals UCP, ChildCare Network

The sheriff must deliver a copy of this order to the principal or the principal's designee at the following school(s): (name schools)

- ☐ 9. the plaintiff is granted possession and use of the vehicle described in Block No. 10 of the Findings on Page 3. [08]
- ☐ 10. The plaintiff is awarded temporary custody of the minor child(ren) (Check any of a, b, or c that apply.)
- a. ☐ and the defendant is ordered to stay away from the minor child(ren).
- b. ☐ and the defendant is ordered to immediately return the minor child(ren) to the care of the plaintiff.
- c. ☐ and the defendant is ordered not to remove the minor child(ren) from the care of the plaintiff.

- ☐ 11. (If No. 10 is checked and you are allowing visitation to defendant) The defendant is allowed the following contact with the minor child(ren):
- ☒ 12. the defendant is prohibited from ☒ possessing, owning or receiving [07] ☒ purchasing a firearm for the effective period of this Order [07] ☒ and the defendant's concealed handgun permit is suspended for the effective period of this Order. [08]
☐ The defendant is a law enforcement officer/member of the armed services and ☐ may ☐ may not possess or use a firearm for official use.
- ☒ 13. the defendant surrender to the Sheriff serving this order the firearms, ammunition, and gun permits described in Number 3 of the Findings on Page 2 of this Order and any other firearms and ammunition in the defendant's care, custody, possession, ownership or control. **NOTE TO DEFENDANT: You must surrender these items to the serving officer at the time this Order is served on you. If the weapons cannot be surrendered at that time, you must surrender them to the sheriff within 24 hours at the time and place specified by the sheriff. Failure to surrender the weapons and permits as ordered or possessing, owning, purchasing, or receiving a firearm, ammunition or permits to purchase or carry concealed firearms after being ordered not to possess firearms, ammunition or permits is a crime. See "Notice To Parties: To The Defendant" on page 4 of this Order for information regarding the penalty for these crimes and instructions on how to request return of surrendered weapons.**
- ☐ 14. the request for Ex Parte Order is denied.
- ☐ 15. Other: (specify) [08]

Date 9-8-11 Signature [Signature] ☒ District Court Judge
☐ Designated Magistrate

NOTE TO PLAINTIFF: If the judge signs this Order and gives it to you, take it to the Clerk's office immediately. If the magistrate signs this Order and gives it to you, follow the magistrate's directions.

NOTE TO CLERK: Give or mail a copy of this Order to the plaintiff and to the appropriate local law enforcement agency. Send copies to sheriff with Notice Of Hearing, Complaint and Summons for service on defendant. Send extra copies to the sheriff if required to deliver copy(ies) to the child(ren)'s school.

NOTICE TO PARTIES

TO THE DEFENDANT:

1. If this Order prohibits you from possessing, owning, receiving or purchasing a firearm and you violate or attempt to violate that provision, you may be charged with a Class H felony pursuant to North Carolina G.S. 14-269.8 and may be imprisoned for up to 30 months.
2. If you have been ordered to surrender firearms, ammunition, and gun permits and you fail to surrender them as required by this Order, or if you failed to disclose to the Court all information requested about possession of these items or provide false information about any of these items you may be charged with a Class H felony and may be imprisoned for up to 30 months. If you surrendered your firearms, ammunition, and permits, you may file a motion for the return of weapons with the clerk of court in the county in which this Order was entered when the protective order is no longer in effect, except if at the time this Order expires criminal charges, in either state or federal court, are pending against you alleged to have been committed against the person who is protected by this order, you may not file for return of the firearms until final disposition of the criminal charges. The form motion, "Motion For Return Of Weapons Surrendered Under Domestic Violence Order" AOC-CV-319, is available from the clerk of court's office. The motion must be filed not later than 90 days after the expiration of the Order that requires you to surrender the firearms or if you have pending criminal charges alleged to have been committed against the person who is protected by the domestic violence protection order, the motion must be filed not later than 90 days after final disposition of the criminal charges. At the time you file the motion, the clerk will schedule a hearing before the district court for a judge to determine whether to return the weapons to you. The sheriff cannot return your weapons unless the Court orders the sheriff to do so. You must pay the sheriff's storage fee before the sheriff returns your weapons. If you fail to file a motion for return of the weapons within 90 days after the expiration of this Order, or the final disposition of criminal charges pending at the time this Order expired, or if you fail to pay the storage fees within 30 days after the Court enters an order to return your weapons, the sheriff may seek an order from the Court to dispose of your weapons.

TO THE PLAINTIFF:

1. You should keep a copy of this order on you at all times and should make copies to give to your friends and family. If you move to another county or state, you may wish to give a copy to the law enforcement agency where you move, but you are not required to do so.
2. The court or judge is the only one that can make changes to this order. If you wish to change any of the terms of this order, you must come back into court to have the judge modify the order.
3. If the defendant violates any provision of this order, you may call a law enforcement officer or go to a magistrate to charge the defendant with the crime of violating a protective order. You also may go to the Clerk of Court's office in the county where the protective order was issued and ask to fill out form AOC-CV-307, Motion For Order To Show Cause Domestic Violence Protective Order, to have an order issued for the defendant to appear before a district court judge to be held in contempt for violating the order.

STATE OF NORTH CAROLINA

File No.

New Hanover CountyIn The General Court Of Justice
District Court Division

Name Of Plaintiff (Person Filing Complaint)

Catherine Blaylock

VERSUS

Name And Address Of Defendant (Person Accused Of Abuse)

Brian Berger527 Commons Way
Wilmington, NC 28409

FILED

SEP -8 PM 3:38

NEW HANOVER COUNTY, NC

BY JP

COMPLAINT AND MOTION

FOR

DOMESTIC VIOLENCE
PROTECTIVE ORDER

G.S. 50B-1, -2, -3, -4

(Check only boxes that apply and fill in blanks. Additional sheets may be attached.)

1. I live in New Hanover County, North Carolina.
2. The defendant and I ☐ are married. ☐ are divorced.
☐ are persons of the opposite sex who are not married but live together or have lived together.
☐ have a child in common.
☐ are parent and child or grandparent and grandchild.
☐ are current or former household members.
☒ are persons of the opposite sex who are in or have been in a dating relationship.
3. There ☐ is ☒ is not another court proceeding between the defendant and me pending in this or any other state. (List county, date and what kind of proceeding, if applicable.)

- ☒ 4. The defendant has attempted to cause or has intentionally caused me bodily injury; or has placed me or a member of my family or household in fear of imminent serious bodily injury or in fear of continued harassment that rises to such a level as to inflict substantial emotional distress; or has committed a sexual offense against me in that: (Give specific dates and describe in detail what happened.)
Brian Berger and I have been broken up since the first week of Aug. 2011. He did not seem to realize this until Aug. 30th when he came to my home. We argued and after leaving, he said he would kill himself and sent me pictures. Due to his being a public figure, this all hit the media. He has threatened my work and to file a false report to DSS to remove my children. He also caused emotional distress for me and my sons during another incident Sept 2nd 2011.
- ☐ 5. The defendant has attempted to cause or has intentionally caused bodily injury to the child(ren) living with me or in my custody; has placed my child(ren) in fear of imminent serious bodily injury or in fear of continued harassment that rises to such a level as to inflict substantial emotional distress; or has committed a sexual offense against the child(ren) in that: (Give specific dates and describe in detail what happened.)

- ☐ 6. I believe there is danger of serious and immediate injury to me or my child(ren).
- ☐ 7. (Check this block if you ask for temporary child custody.) The defendant and I are the parents of the following child(ren) under the age of eighteen.

A COPY OF "AFFIDAVIT AS TO STATUS OF MINOR CHILD" (AOC-CV-609) MUST BE ATTACHED FOR EACH CHILD.

Name	Sex	Date Of Birth	Name	Sex	Date Of Birth

- ☐ 8. (Fill in the block if you are asking for temporary child custody) The minor child(ren) listed in No 7. above is exposed to a substantial risk physical or emotional injury or sexual abuse in that: (Describe in detail what happened that created a risk of physical or emotional injury or sexual abuse.)
- ☐ 9. The defendant has firearms and ammunition as described below, ☐ has a permit to purchase a firearm, ☐ and has a permit to carry a concealed weapon. (Describe all firearms, ammunition, gun permits and give identifying number(s) if known, and indicate where defendant keeps firearms and gun permits.)
- ☐ 10. The defendant has used or threatened to use a deadly weapon against me or minor child(ren) in my custody or has a pattern of prior conduct involving the use or threatened use of violence with a firearm against any persons in that (give specific dates and describe in detail what happened)
- ☒ 11. The defendant has made threats to commit suicide in that (give specific dates and describe in detail what happened)
Upon learning of our breakup, Aug. 30, 2011, Brian Berger said he could not live without me and that I had killed him. He then cut himself with a razor and texted me the pictures.

Because Of The Acts Of Domestic Violence By The Defendant, I Am Requesting That The Court Give Me The Following Relief:
(Check only boxes that apply.)

- ☒ 1. I want emergency relief.
- ☒ 2. Since there is a danger of acts of domestic violence against me or my child(ren), I want an Ex Parte Order before notice of a hearing is given to the defendant.
- ☒ 3. I want the Court to order the defendant not to assault, threaten, abuse, follow, harass or interfere with me and my child(ren).
- ☐ 3a. I want the defendant ordered not to cruelly treat or abuse an animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household.
- ☐ 4. I want possession of our residence at the address listed below, and I want the defendant to move from and not return to the residence.
Address Of Residence
527 Commons Way Wilmington, NC 28400
- ☐ 5. I want the Court to order the eviction of the defendant from the residence listed above and I want assistance in returning to the residence.
- ☒ 6. I want possession of the personal property such as clothing and household goods in the residence listed above except for the defendant's personal clothing, toiletries and tools of trade.
- ☐ 6a. I want the care, custody, and control of any animal owned, possessed, kept, or held as a pet by either party or minor child residing in the household granted to me.

VERSUS

File No.

Name Of Defendant

Brian Berger

- ☐ 7. I want the defendant to be ordered not to come on or about:
- ☒ (a) my residence. ☐ (b) any place where I am receiving temporary shelter.
- ☒ (c) the place where I work. ☒ (d) any school(s) the child(ren) attend.
- ☒ (e) the place where the child(ren) receives day care. ☐ (f) the place where I go to school.
- ☐ (g) Other: (name other places)

The child(ren) currently attend: (name school)

Pine Valley Elementary Childcare Network
Easter Seals UCP

- ☐ 8. I want the defendant to be ordered to have no contact with me.
- ☐ 9. I want possession and use of the following vehicle:
- Describe Vehicle
- ☐ 10. I want temporary custody of our minor child(ren) listed in this Complaint. I understand that I must file a separate child custody action for permanent custody.
- ☐ 11. I want the defendant to be ordered to make payments for the support of our minor child(ren), as required by law, but I understand it is only temporary and that I must file a separate child support action for regular, permanent child support.
- ☐ 12. I want the Court to prohibit the defendant from possessing or purchasing a firearm.
- ☐ 13. I want the Court to order the defendant to surrender to the sheriff his/her firearms, ammunition, and gun permits to purchase a firearm and carry a concealed weapon.
- ☐ 14. I want the defendant to be ordered to attend an abuser treatment program.
- ☐ 15. I want the defendant to be ordered to provide me and the child(ren) suitable alternative housing.
- ☐ 16. I want the defendant to be ordered to make payments for my support as required by law, but I understand it is only temporary and that I must file a separate action for regular permanent spousal support.
- ☐ 17. Other: (specify)

Date

9-8-11

Signature Of Plaintiff (Person Filing Complaint)

Catherine Blaylock

VERIFICATION

I, the undersigned, being first duly sworn, say that I am the plaintiff in this action; that I have read the Complaint and Motion; that the matters and things alleged in the Complaint and Motion are true except as to those things alleged upon information and belief and as to those I believe them to be true and accurate.

SWORN/AFFIRMED AND SUBSCRIBED TO BEFORE ME

Date

9-8-11

Date

9/8/11

Signature

Jackie J. T. 824

Signature Of Plaintiff

Catherine Blaylock

Name Of Plaintiff (Type Or Print)

Catherine Blaylock

- ☒ Deputy CSC
- ☐ Assistant CSC

- ☐ Clerk of Superior Court
- ☐ Designated Magistrate

☐ Notary

Date My Commission Expires

SEAL

County Where Notarized